

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Philip Barthram et al.
Serial No.: 10/759,774
Filing Date: January 16, 2004
Group Art Unit: 2191
Examiner: Matthew J. Brophy
Confirmation No.: 8142
Title: Method and System for Managing a Computer System

Mail Stop AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. A one-month Notice of Extension of Time is being filed concurrently herewith. Applicants respectfully request reconsideration of the application in light of the remarks set forth below.

REMARKS

This Application has been carefully reviewed in light of the Final Office Action electronically mailed October 21, 2008 (“Office Action”) and the Advisory Action electronically mailed February 11, 2009 (“Advisory Action”). Applicants appreciate the Examiner’s consideration of the Application. Applicants respectfully request consideration and allowance of all pending claims.

I. Section 103 Rejections

The Examiner rejects independent Claim 91 under 35 U.S.C. § 103(a) as being unpatentable over *Aronberg* in view of *Okada*. The Examiner rejects Claims 1, 7-13, 23, 29-35, 45, 51-57, 67, 73-79, 90, and 92-99 over *Aronberg*, *Okada*, and further in view of *Hayes*. The Examiner rejects Claims 14-15, 17-19, 36-37, 39-41, 58-59, 61-63, 80-81, 83-85, 100, 101, and 103-105 under 35 U.S.C. § 103(a) as being unpatentable over *Aronberg*, *Okada*, *Hayes*, and further in view of *Lubanski*. The Examiner rejects 20, 42, 64, 86, and 105 under 35 U.S.C. § 103(a) as being unpatentable over *Aronberg* and *Okada* and further in view of *Brovick*. The Examiner rejects Claims 16, 21, 38, 43, 60, 65, 82, 87, 102, and 106 under 35 U.S.C. § 103(a) as being unpatentable over *Aronberg*, *Okada*, *Hayes*, and further in view of *Davis*. Applicants respectfully traverse these rejections.

A. Claims 1, 7-21, 23, 29-43, 45, 51-65, 67, 73-87, and 90, 92-106

As stated above, independent Claims 1, 23, 45, 67, and 90 are rejected over the proposed *Aronberg-Okada-Hayes* combination. Applicants respectfully submit that the *Aronberg-Okada-Hayes* combination does not disclose, teach, or suggest the features and operations recited in at least Applicants’ independent Claim 1.

For example, Applicants contend that the cited references, even when considered in combination, do not disclose, teach, or suggest “identifying, as target computers to receive a modification, all of the plurality of network computers in the enterprise system that are used by the selected user.” The Examiner relies on *Okada* for disclosing this limitation. (*Office Action*, pg. 6). Applicants respectfully disagree.

Okada discloses “an on-line system in which individuals can purchase a software program through a network” that imposes on users “[l]imitations on installing and using the software program.” (*Okada*, Column 1, lines 36-44). *Okada* discloses maintaining user information and terminal information, making it “possible to recognize which user receives

the software program and which terminal the software program is installed in.” (*Okada*, Column 4, lines 62-65). Thus, *Okada* merely tracks the software programs sold, the users to whom they are sold, and the terminals each software program may be used on. The mere disclosure of maintaining information related to software programs previously sold fails to disclose, teach, or suggest targeting “computers to receive a modification,” as recited in Claim 1. *Aronberg* and *Hayes* fail to cure these deficiencies.

Additionally, in the *Office Action*, the Examiner identifies that *Okada* discloses that “one user has a plurality of terminals.” (*Office Action*, page 4, citing Column 7, lines 44-53). Information regarding these terminals is only maintained if the user registers the individual computers or attempts to access the terminal center from an unregistered computer. (*Okada*, Column 7, lines 44-53; Column 5, lines 6-26). The system of *Okada* has no information about user terminals falling outside of these two categories. For example, with regard to Figure 6, *Okada* stipulates that “[t]hough OASYS has been installed in the terminal type FMR, no terminal identifier MID is given to FMR because FMR has not been registered in the host computer 11.” (*Okada*, Column 8, lines 1-4 (emphasis added)). In response, the Examiner states that the FMR terminal “is not considered part of the system” for purposes of Claim 1. (*Advisory Action*, pg. 2). However, *Okada* only discloses that FMR is not authorized to install previously sold software. Otherwise, it is used by the user, and there is no indication that it is not “part of the system.”

Therefore, *Okada* discloses unregistered use. Since no information is maintained regarding unregistered terminals, there is no disclosure in *Okada* that the terminals of PC98, TOWNS, and FMR represent “all of the network computers in the enterprise system that are used by the selected user,” as recited in Claim 1. For at least these reasons, Applicants respectfully submit that the cited references, either alone or in combination, fail to disclose, teach, or suggest “. . . identifying a plurality of network computers in an enterprise system that are used by a selected one of a plurality of users, the plurality of enterprise computers representing all of the network computers in the enterprise system that are use by the selected user,” as recited in Claim 1.

For substantially similar reasons, Applicants respectfully submit that the cited references fail to disclose, teach, or suggest each and every element of independent Claims 23, 45, 67, and 90, along with their respective dependent claims.

B. Claim 91

Applicants respectfully submit that the proposed *Aronberg-Okada* combination does not disclose, teach, or suggest each and every element recited in Applicants' Claim 91. For example, the proposed *Aronberg-Okada* combination does not disclose, teach, or suggest that the "selecting and modifying are performed when the user becomes newly associated with at least one of the target computers," as recited in Claim 91. In the *Office Action*, the Examiner relies specifically on *Aronberg* for disclosure of the recited claim elements. (*Office Action*, pages 8-9).

The first cited portion merely discloses that a "user at the administrator, i.e., console 101" sets the criteria for specifying which computers receive the application. (*Aronberg*, Column 4, lines 52-57). Thus, the cited portion only indicates that an administrator controls the distribution process. (*See also, Aronberg*, Column 4, lines 48-61). An administrator is not a new user and the administrator console is not a target computer to receive the distribution. Accordingly, Column 4, lines 52-57 do not disclose, teach, or suggest "selecting and modifying are performed when the user becomes newly associated with at least one of the target computers," as recited in Claim 91. The Examiner has responded by saying that "the claim limitation in question is '...when the user becomes newly associated with at least one of the target computers.' User (admin) instead creates the association and therefore anticipates this limitation." (*Office Action*, page 27). However, this statement ignores an explicit portion of the claim limitation in question - "wherein selecting and modifying are performed when the user becomes newly associated." Even if the "User (admin)" of *Aronberg* does create the association, there is no indication that the selecting and modifying of Claim 91 occur when this association occurs. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claim 91.

CONCLUSION

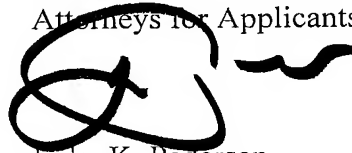
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending Claims.

Filing concurrently herewith are a Notice of Appeal and a one-month Notice of Extension of Time. Applicants believe no additional fees are due. However, the Commissioner is hereby authorized to charge any fee or credit any overpayment Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If the Examiner feels that a conference would advance prosecution of this Application in any manner, Luke K. Pedersen stands willing to conduct such a telephone interview at the convenience of the Examiner. Mr. Pedersen may be reached at 214-953-6655.

Respectfully submitted,

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